

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

IGNACIO CARDENAS,

Plaintiff,

v.

CV 22-897 GBW/GJF

FARM BUREAU PROPERTY & CASUALTY  
INSURANCE COMPANY,

Defendant.

**ORDER TO SHOW CAUSE**

THIS MATTER is before the Court *sua sponte*. Defendant removed this case to this Court on November 23, 2022. ECF 1. The attached state court records [ECF 2] do not reflect that Defendant answered the Complaint before removal, nor has Defendant answered or in any other way responded to the Complaint in the 98 days since removal. The docket sheet demonstrates that Plaintiff has taken no steps to prosecute this action since it was removed to this Court, whether by seeking entry of default or otherwise.

Rule 41(b) of the Federal Rules of Civil Procedure authorizes the Court to dismiss *sua sponte* an action for failure to prosecute. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003); *see also* D.N.M.L.R.-Civ. 41.1 (“A civil action may be dismissed if, for a period of ninety (90) days, no steps are taken to move the case forward.”). The Court is also authorized to impose sanctions for Plaintiff’s failure to prosecute based on the Court’s inherent power to regulate its docket and promote judicial efficiency. *See Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984). One such sanction within the discretion of the Court is to dismiss an action for failing to prosecute. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962); *United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 856 (10th Cir. 2005); *see also Sweeney v.*

*Anderson*, 129 F.2d 756, 758 (10th Cir. 1942) (“The duty rests upon the plaintiff to use diligence and to expedite his case to a final determination.”).

In addition to the Federal Rules of Civil Procedure, the Court’s own Local Rules speak to the issue as well. Specifically, Local Rule 41.1, entitled “Dismissal for Want of Prosecution,” provides that “[a] civil action may be dismissed, if for a period of ninety (90) days, no steps are taken to move the case forward.” D.N.M.LR-Civ. 41.1. More than ninety days have elapsed since Plaintiff took any step to move this case forward.

**WHEREFORE, IT IS ORDERED** that to avoid dismissal of this action, Plaintiff must show good cause in writing not later than March 10, 2023, why this case should not be dismissed for failure to prosecute.

**SO ORDERED.**



GREGORY J. FOURATT  
UNITED STATES MAGISTRATE JUDGE